

**ASSEMBLY, No. 4202**

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**STATE OF NEW JERSEY**

**214th LEGISLATURE**

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INTRODUCED JUNE 27, 2011

**Sponsored by:**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex)**

**Assemblywoman CELESTE M. RILEY**

**District 3 (Salem, Cumberland and Gloucester)**

**Assemblywoman L. GRACE SPENCER**

**District 29 (Essex and Union)**

**Assemblyman ALBERT COUTINHO**

**District 29 (Essex and Union)**

**Co-Sponsored by:**

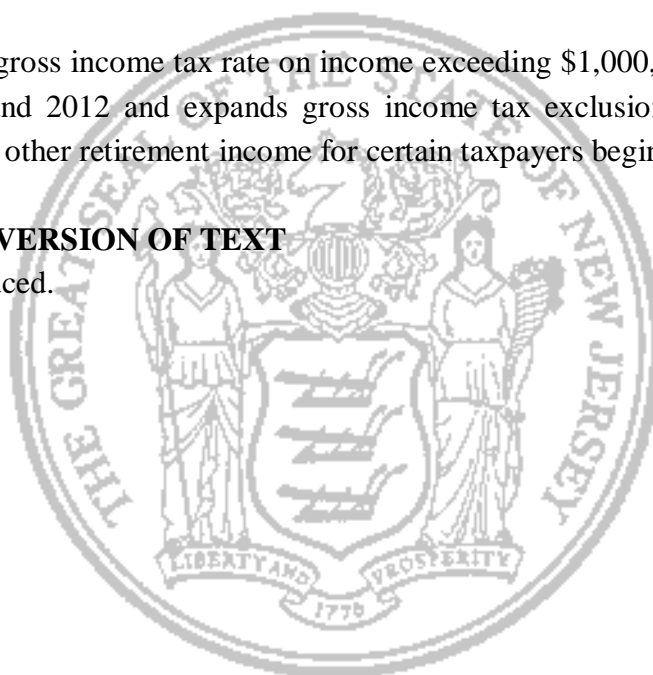
**Assemblyman Caputo, Assemblywomen Pou, Tucker, Assemblymen Fuentes, Mainor, Assemblywomen Evans, Wagner, Jasey, Senators Lesniak, Norcross, Greenstein, Cunningham, Ruiz, Beach, Gordon, Whelan and Stack**

**SYNOPSIS**

Increases gross income tax rate on income exceeding \$1,000,000 for taxable years 2011 and 2012 and expands gross income tax exclusion for pensions, annuities and other retirement income for certain taxpayers beginning in 2011.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/30/2011)**

1 **AN ACT** increasing the gross income tax rate on income exceeding  
 2 \$1,000,000 for taxable years 2011 and 2012, and expanding the  
 3 gross income tax exclusion for certain pensions, annuities and  
 4 retirement income, amending N.J.S.54A:6-10 and P.L.1977,  
 5 c.273, and supplementing Title 54A of the New Jersey Statutes.

6  
 7 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
 8 *of New Jersey:*

9  
 10 1. (New section) a. Notwithstanding the taxable income tables  
 11 and tax rates provided in N.J.S.54A:2-1 or any other provision of  
 12 law to the contrary, for taxable years beginning on or after January  
 13 1, 2011 but before January 1, 2013, the amount of tax due pursuant  
 14 to the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq.,  
 15 for a taxpayer whose taxable income exceeds \$1,000,000 shall be  
 16 determined pursuant to subsections b. and c. of this section as is  
 17 applicable.

18 b. For married individuals filing a joint return and individuals  
 19 filing as head of household or as surviving spouse for federal  
 20 income tax purposes:

21		
22	If the taxable income is:	The tax is:
23		
24	Over \$1,000,000.00 . . . . .	\$72,657.50 plus 10.75%
25		of the excess over
26		\$1,000,000.00
27		

28 c. For married individuals filing separately, unmarried  
 29 individuals other than individuals filing as head of household or as  
 30 a surviving spouse for federal income tax purposes, and estates and  
 31 trusts:

32		
33	If the taxable income is:	The tax is:
34		
35	Over \$1,000,000.00 . . . . .	\$74,573.75 plus 10.75%
36		of the excess over
37		\$1,000,000.00
38		

39 d. No additions to tax or penalty shall be imposed under  
 40 N.J.S.54A:9-6 for insufficient payment of estimated tax that may  
 41 otherwise be due on salaries, wages and other remuneration  
 42 received before October 1, 2011 upon which there is a rate of tax  
 43 imposed pursuant to subsections b. and c. of this section.

44 e. An employer maintaining an office or transacting business  
 45 within this State and making payment of any salaries, wages and

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 remuneration subject to New Jersey gross income tax or making  
2 payment of any remuneration for employment subject to  
3 contribution under the New Jersey "unemployment compensation  
4 law," pursuant to R.S.43:21-1 et seq., that is subject to New Jersey  
5 gross income tax shall not be subject to interest, penalties or other  
6 costs that may otherwise be imposed for insufficient withholding of  
7 salaries, wages and other remuneration made before October 1,  
8 2011 that is directly attributable to the enactment of the taxable  
9 income tables and tax rates in subsections b. and c. of this section.

10  
11 2. N.J.S.54A:6-10 is amended to read as follows:

12 54A:6-10. Pensions and annuities. a. Gross income shall not  
13 include that part of any amount received as an annuity under an  
14 annuity, endowment, or life insurance contract which bears the  
15 same ratio to such amount as the investment in the contract as of the  
16 annuity starting date bears to the expected return under the contract  
17 as of such date. Where (1) part of the consideration for an annuity,  
18 endowment, or life insurance contract is contributed by the  
19 employer, and (2) during the three-year period beginning on the  
20 date on which an amount is first received under the contract as an  
21 annuity, the aggregate amount receivable by the employee under the  
22 terms of the contract is equal to or greater than the consideration for  
23 the contract contributed by the employee, then all amounts received  
24 as an annuity under the contract shall be excluded from gross  
25 income until there has been so excluded an amount equal to the  
26 consideration for the contract contributed by the employee.

27 In addition to that part of any amount received as an annuity  
28 which is excludable from gross income as herein provided, gross  
29 income shall not include payments:

30 for taxable years beginning before January 1, 2000, of up to  
31 \$10,000 for a married couple filing jointly, \$5,000 for a married  
32 person filing separately, or \$7,500 for an individual filing as a  
33 single taxpayer or an individual determining tax pursuant to  
34 subsection a. of N.J.S.54A:2-1;

35 for the taxable year beginning on or after January 1, 2000, but  
36 before January 1, 2001, of up to \$12,500 for a married couple filing  
37 jointly, \$6,250 for a married person filing separately, or \$9,375 for  
38 an individual filing as a single taxpayer or an individual  
39 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

40 for the taxable year beginning on or after January 1, 2001, but  
41 before January 1, 2002, of up to \$15,000 for a married couple filing  
42 jointly, \$7,500 for a married person filing separately, or \$11,250 for  
43 an individual filing as a single taxpayer or an individual  
44 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

45 for the taxable year beginning on or after January 1, 2002, but  
46 before January 1, 2003, of up to \$17,500 for a married couple filing  
47 jointly, \$8,750 for a married person filing separately, or \$13,125 for

1 an individual filing as a single taxpayer or an individual  
2 determining tax pursuant to subsection a. of N.J.S.54A:2-1;  
3 for taxable years beginning on or after January 1, 2003, but  
4 before January 1, 2011, of up to \$20,000 for a married couple filing  
5 jointly, \$10,000 for a married person filing separately, or \$15,000  
6 for an individual filing as a single taxpayer or an individual  
7 determining tax pursuant to subsection a. of N.J.S.54A:2-1, which  
8 are received as an annuity, endowment or life insurance contract, or  
9 payments of any such amounts which are received as pension,  
10 disability, or retirement benefits, under any public or private plan,  
11 whether the consideration therefor is contributed by the employee  
12 or employer or both, by any person who is 62 years of age or older  
13 or who, by virtue of disability, is or would be eligible to receive  
14 payments under the federal Social Security Act, but for taxable  
15 years beginning on or after January 1, 2005, but before January 1,  
16 2011, only if the taxpayer has gross income for the taxable year of  
17 not more than \$100,000; and

18 for taxable years beginning on or after January 1, 2011, which  
19 are received as an annuity, endowment or life insurance contract, or  
20 payments of any such amounts which are received as pension,  
21 disability, or retirement benefits, under any public or private plan,  
22 whether the consideration therefor is contributed by the employee  
23 or employer or both, by any person who is 62 years of age or older  
24 or who, by virtue of disability, is or would be eligible to receive  
25 payments under the federal Social Security Act, but only if the  
26 taxpayer has gross income for the taxable year of less than  
27 \$110,000, as limited by subsection b. of this section.

28 Gross income shall not include any amount received under any  
29 public or private plan by reason of a permanent and total disability.

30 Gross income shall not include distributions from an employees'  
31 trust described in section 401(a) of the Internal Revenue Code of  
32 1986, as amended (hereinafter referred to as "the Code" ), which is  
33 exempt from tax under section 501(a) of the Code if the  
34 distribution, except the portion representing the employees'  
35 contributions, is rolled over in accordance with section 402(a)(5) or  
36 section 403(a)(4) of the Code. The distribution shall be paid in one  
37 or more installments which constitute a lump-sum distribution  
38 within the meaning of section 402(e)(4)(A) (determined without  
39 reference to subsection (e)(4)(B)), or be on account of a termination  
40 of a plan of which the trust is a part or, in the case of a profit-  
41 sharing or stock bonus plan, a complete discontinuance of  
42 contributions under such plan.

43 b. For purposes of the exclusion provided to taxpayers with  
44 less than \$110,000 of gross income for taxable years beginning on  
45 or after January 1, 2011 pursuant to subsection a. of this section, the  
46 amount of payments that may be excluded shall be reduced by the  
47 percentage calculated by dividing the amount of the taxpayer's

1 gross income for the taxable year that is in excess of \$100,000, but  
2 less than \$110,000, by \$10,000.

3 (cf: P.L.2005, c.130, s.1)

4  
5 3. Section 3 of P.L.1977, c.273 (C.54A:6-15) is amended to  
6 read as follows:

7 3. Other retirement income. a. Gross income shall not include  
8 income:

9 for taxable years beginning before January 1, 2000, of up to  
10 \$10,000 for a married couple filing jointly, \$5,000 for a married  
11 person filing separately, or \$7,500 for an individual filing as a  
12 single taxpayer or an individual determining tax pursuant to  
13 subsection a. of N.J.S.54A:2-1;

14 for the taxable year beginning on or after January 1, 2000, but  
15 before January 1, 2001, of up to \$12,500 for a married couple filing  
16 jointly, \$6,250 for a married person filing separately, or \$9,375 for  
17 an individual filing as a single taxpayer or an individual  
18 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

19 for the taxable year beginning on or after January 1, 2001, but  
20 before January 1, 2002, of up to \$15,000 for a married couple filing  
21 jointly, \$7,500 for a married person filing separately, or \$11,250 for  
22 an individual filing as a single taxpayer or an individual  
23 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

24 for the taxable year beginning on or after January 1, 2002, but  
25 before January 1, 2003, of up to \$17,500 for a married couple filing  
26 jointly, \$8,750 for a married person filing separately, or \$13,125 for  
27 an individual filing as a single taxpayer or an individual  
28 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

29 for taxable years beginning on or after January 1, 2003, but  
30 before January 1, 2011, gross income shall not include income of up  
31 to \$20,000 for a married couple filing jointly, \$10,000 for a married  
32 person filing separately, or \$15,000 for an individual filing as a  
33 single taxpayer or an individual determining tax pursuant to  
34 subsection a. of N.J.S.54A:2-1, when received in any tax year by a  
35 person aged 62 years or older who received no income in excess of  
36 \$3,000 from one or more of the sources enumerated in subsections  
37 a., b., k. and p. of N.J.S.54A:5-1, but for taxable years beginning on  
38 or after January 1, 2005, but before January 1, 2011, only if the  
39 taxpayer has gross income for the taxable year of not more than  
40 \$100,000, provided, however, that the total exclusion under this  
41 subsection and that allowable under N.J.S.54A:6-10 shall not  
42 exceed the amounts of the exclusions set forth in this subsection;  
43 and

44 for taxable years beginning on or after January 1, 2011, gross  
45 income shall not include income of up to \$20,000 for a married  
46 couple filing jointly, \$10,000 for a married person filing separately,  
47 or \$15,000 for an individual filing as a single taxpayer or an  
48 individual determining tax pursuant to subsection a. of N.J.S.54A:2-

1 1, when received in any tax year by a person aged 62 years or older  
2 who received no income in excess of \$3,000 from one or more of  
3 the sources enumerated in subsections a., b., k. and p. of  
4 N.J.S.54A:5-1, but only if the taxpayer has gross income for the  
5 taxable year of not more than \$100,000, provided, however, that a  
6 taxpayer's maximum exclusion allowed under this subsection shall  
7 be reduced by the amount of the exclusion allowed the taxpayer  
8 pursuant to N.J.S.54A:6-10.

9 b. In addition to the exclusion provided under N.J.S.54A:6-10  
10 and subsection a. of this section, gross income shall not include  
11 income of up to \$6,000 for a married couple filing jointly or an  
12 individual determining tax pursuant to subsection a. of N.J.S.54A:2-  
13 1, or \$3,000 for a single person or a married person filing  
14 separately, who is not covered under N.J.S.54A:6-2 or N.J.S.54A:6-  
15 3, but who would be eligible in any year to receive payments under  
16 either section if he or she were covered thereby.

17 (cf: P.L.2005, c.130, s.2)

18  
19 4. This act shall take effect immediately, provided however, that  
20 this act shall be inoperative until the enactment into law of  
21 P.L.2011, c. (pending before the Legislature as Senate Bill No.  
22 2970 or Assembly Bill No. 4203 of 2011).

#### 23 24 25 STATEMENT

26  
27 This bill provides a temporary adjustment to the rate of the gross  
28 income tax for taxpayers with taxable incomes exceeding  
29 \$1,000,000 in taxable years beginning on or after January 1, 2011  
30 but before January 1, 2013 (taxable year 2011 and taxable year  
31 2012). The bill provides for adjusted income taxation at the  
32 following bracket at the following rate: over \$1,000,000 is adjusted  
33 from 8.97% to 10.75%.

34 This bill also expands the exclusion under the gross income tax  
35 for pensions, annuities and certain other retirement income for  
36 qualified taxpayers beginning with taxable year 2011. At present,  
37 qualified taxpayers that are at least 62 years of age, or by virtue of  
38 disability would be eligible to receive social security payments, and  
39 have \$100,000 or less of gross income may exclude \$20,000,  
40 \$15,000 or \$10,000 of various pension, annuity and retirement  
41 benefit income, depending on their tax filing status (i.e. joint, single  
42 and separate).

43 This bill expands the exclusion by removing the \$20,000,  
44 \$15,000 and \$10,000 exclusion caps, and provides full exclusions  
45 for qualified taxpayers with gross income less than \$100,000. The  
46 bill also provides limited exclusions for qualified taxpayers with  
47 income exceeding \$100,000 but less than \$110,000 as a method of  
48 phasing out eligibility. The limited exclusion for qualified

1 taxpayers with gross income exceeding \$100,000 but less than  
2 \$110,000 reduces the exclusion amount in proportion to the amount  
3 of the taxpayer's gross income that is above \$100,000.

4 This bill will remain inoperative until the enactment of Senate  
5 Bill No. 2970 or Assembly Bill No. 4203 of 2011 that provides for  
6 State Fiscal Year 2012, when added to the funding in the State  
7 Fiscal Year 2012 annual appropriations act, that all school districts  
8 receive full funding of State aid determined pursuant to the "School  
9 Funding Reform Act of 2008."